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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/531,283	03/20/2000	Masahiko Morita	B208-1086	5644
26272	7590	06/16/2004	EXAMINER	
ROBIN BLECKER & DALEY 2ND FLOOR 330 MADISON AVENUE NEW YORK, NY 10017			TILLERY, RASHAWN N	
			ART UNIT	PAPER NUMBER
			2612	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/531,283

Applicant(s)

MORITA, MASAHIKO

Examiner

Rashawn N Tillery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed March 24, 2004 have been fully considered but they are not persuasive.

Regarding Applicant's arguments, on page 10 of the response, concerning the Fellegara patent failing to disclose Applicant's claimed invention, the examiner respectfully disagrees. Applicant is claiming, in claims 1, 9 and 17, that a processing operation of a selected mode is carried out only after writing-in of image data to a permanent memory transferred from a temporary memory. The examiner notes that Applicant is not claiming that the modes are prevented from being switched during image transfer as argued on page 10 of the response. Therefore, Applicant's claim language is written broadly enough where the prior art reference could be interpreted to read on it.

Fellegara teaches processing of a working image varies based on the type of image capture mode selected; and each capture mode has a different means for storage. See col. 10, line 37 to col. 11, line 42. Thus, since processing is carried out after the image is written into memory, it is inherent that Fellegara teach the claimed limitation of "effecting a processing operation of a mode to which the operation processing mode has been changed over by the change-over means, after finishing writing-in of the image data [.]"

Regarding Applicant's arguments concerning Fellegara teaching that a last captured working image is capable of being displayed without the attachment of the memory card, the examiner agrees. However, this feature is not relevant to Applicant's claim language. Applicant is not claiming the prevention of modes from being switched during image transfer.

Therefore, the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 9-14, 17-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Fellegara et al (US6441854).

Regarding claims 1, 9 and 17, Fellegara discloses, in figure 6, an image pickup apparatus comprising:

image pickup means (94) for picking up image data of an object;

a volatile recording medium (124) for temporarily recording therein the image data picked up by the image pickup means (Fellegara teaches the working memory 124 is used during image data collection and processing; see col. 8, lines 35-65);

a nonvolatile recording medium (126 or 130) for recording therein the image data recorded in the volatile recording medium (see col. 8, lines 35-65);

change-over means (23) for changing over an operation processing mode of the image pickup apparatus (Fellegara teaches 3 image capture modes, a quick review switch and a power down mode; see col. 10, lines 19-36 col. 13, lines 18-45 and col. 10, lines 37-58, respectively); and

control means for, if the processing operation mode has been changed over by the change-over means before finishing writing-in of image data recorded in the volatile recording medium into the nonvolatile recording medium, effecting a processing operation of a mode to which the operation processing mode has been changed over by the change-over means, after finishing writing-in of the image data recorded in the volatile recording medium into the nonvolatile recording medium (the examiner notes that Fellegara has different means for storage in each image capture mode- digital capture mode stores image data on a memory card 130; film capture mode stores image data on film or nonvolatile memory 126; and hybrid capture mode stores image data on memory card and film- and processing of a working image varies based on the type of image capture mode selected thus, changing from one capture mode to the next would require the image data stored in the temporary storage medium to be recorded in its respective storage means before the mode has been changed over; see col. 11, line 61 to col. 13 line 17).

Regarding claims 2, 10 and 18, Fellegara discloses the operation processing mode of the image pickup apparatus includes a power-off mode for turning off a power

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supply of the image pickup apparatus (Fellegara teaches a power down mode for putting the camera in a "sleep state" for conserving power; see col. 10, lines 37-58).

Regarding claims 3, 11 and 19, Fellegara discloses if the processing operation mode has been changed over by the change-over means to the power-off mode, the control means records in the nonvolatile recording medium the image data recorded in the volatile recording medium, after making a check of at least one of detection of a voltage of the power supply, attachment or detachment of the power supply and attachment or detachment of the nonvolatile recording medium (Fellegara is capable of indicating the presence of a memory card and the number of images that can be stored on the memory card; see col. 9, lines 51-60; Fellegara teaches, in a power down mode, storing a last captured image working image in volatile memory 124. The examiner notes that since Fellegara stores only the last captured image- a single frame- in the temporary memory, the images preceding that last captured image are inherently sent to the nonvolatile memory).

Regarding claims 4, 12 and 20, Fellegara is capable of indicating the presence of a memory card and the number of images that can be stored on the memory card; thus Fellegara gives a "warning" to the user by displaying that the card is not attached.

Regarding claims 5, 13 and 21, Fellegara discloses the operation processing mode of the image pickup apparatus includes an image reproducing mode for reproducing an image represented by the image data picked up by the image pickup means (Fellegara teaches a review mode where the last captured image can be

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displayed; see col. 10, lines 18-45; Fellegara also teaches a review mode where all captured images can be displayed, sequentially; see col. 13, line 61, to col. 14, line 19).

Regarding claims 6, 14 and 22, Fellegara discloses the operation processing mode of the image pickup apparatus includes an image pickup mode for causing the image pickup means to pick up image data of an object (Fellegara teaches three image capture modes- digital, film and hybrid capture modes).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 7, 15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellegara.

Regarding claims 7, 15 and 23, Fellegara is capable of indicating the presence of a memory card and the number of images that can be stored on the memory card. Fellegara does not expressly disclose giving a predetermined warning to a user if there is no unused capacity in the volatile recording medium. However, since Fellegara reveals that it is well known to indicate the number of images that can be stored in a nonvolatile memory, Official Notice is taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the same option

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available for the volatile memory. One would have been motivated to do so in an effort to increase ease of operability.

2. Claims 8, 16 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fellegara in view of Uehara (US5481303).

Regarding claims 8, 16 and 24, Fellegara is capable of indicating the presence of a memory card and the number of images that can be stored on the memory card. Fellegara does not expressly disclose giving a warning to a user different from the predetermined warning if there is no unused capacity in the nonvolatile recording medium. Uehara teaches a camera capable of indicating the available capacity of a recording medium and giving a warning in different forms- variable flash speeds- based on the available capacity of the recording medium (see col. 6, line 32 to col. 7, line 44). Even though Uehara's device is directed toward a single memory, it would have been obvious to one of ordinary skill in the art at the time the invention was made for Fellegara to implement Uehara's teachings. It would have been highly desirable, since Fellegara has different storage mediums for different image capture modes, for Fellegara to distinguish the different storage means by varying flash speeds indicating available capacity as taught by Uehara. One would have been motivated to do so in an effort to increase ease of operability.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashawn N Tillery whose telephone number is 703-305-0627. The examiner can normally be reached on 9AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber can be reached on 703-305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RNT


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